



# The Attorney General of Texas

December 21, 1982

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Open Records Decision No. 330

Re: Minutes of executive  
session of board of local  
mental health and mental  
retardation center

Dear Mr. Goodson:

On behalf of the Mental Health and Mental Retardation Center of Southeast Texas you have requested our decision under the Open Records Act, article 6252-17a, V.T.C.S., as to whether a transcript of an executive session of the board of a local mental health and mental retardation center is available to the public.

In the course of its regular meeting of August 17, 1981, the board of trustees of the Mental Health and Mental Retardation Center of Southeast Texas (hereinafter MHMR Center) held an executive session to review the performance of its executive director. Various individuals were interviewed in this matter, and a court reporter transcribed the proceedings of the executive session. A member of the community advisory committee of the MHMR Center has requested access, as a member of the public, to the transcript. You suggest that the transcript is excepted from disclosure by section 3(a)(1), as "information deemed confidential by law," in this case, section 2(g) of article 6252-17, V.T.C.S., the Open Meetings Act. Section 2(g) thereof provides:

Nothing in this Act shall be construed to require governmental bodies to hold meetings open to the public in cases involving the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee or to hear complaints or charges against such officer or employee, unless such officer or employee requests a public hearing.

In our opinion, section 2(g) constitutes sufficient statutory authority for the board to withhold a transcript of a properly held executive session. The transcript reflects only discussion between witnesses and members of the board and among individual board members.

As long ago as 1974, this office held that minutes of a meeting which reflect discussion properly held in closed session need not be disclosed because:

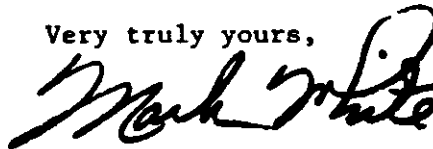
the public policy embodied in these provisions of the Open Meetings Law permits the non-dissemination of those portions of the minutes.

Open Records Decision No. 60 (1974). To require the board to reveal the transcript would, in our view, so vitiate the impact of section 2(g) as to render it of no effect. We conclude, therefore, that the transcript of a properly held executive session of the board may be withheld from disclosure by virtue of section 3(a)(1) of the Open Records Act, as information deemed confidential by law, specifically, section 2(g) of the Open Meetings Act.

You also ask whether an individual who testified in executive session is entitled to a copy of his own transcribed statement. You do not state whether this person is an employee. We will assume for purposes of this decision that he is. In Open Records Decision No. 115 (1975), this office held that an individual employee was entitled to a copy of his own oral and written statements taken in the course of an investigation into the conduct of another employee. The reasoning of Open Records Decision No. 115 was based upon the employee's "special right of access" under section 3(a)(2) of the Open Records Act, a principle which has subsequently been called into question, see Open Records Decision No. 288 (1981). We conclude that the Open Records Act does not entitle this individual, whatever his employment status, to the transcript of his testimony taken in executive session.

Your additional questions relate to matters of statutory construction. The Open Records Act does not give this office authority to resolve such questions in an Open Records Decision. See V.T.C.S. art. 4399.

Very truly yours,



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